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RUEHGT/AMEMBASSY GUATEMALA PRIORITY 0793  
RUEHLP/AMEMBASSY LA PAZ FEB 9670  
RUEHPE/AMEMBASSY LIMA PRIORITY 0349  
RUEHSN/AMEMBASSY SAN SALVADOR PRIORITY 2042  
RUEHGL/AMCONSUL GUAYAQUIL PRIORITY 9962  
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SUBJECT: GOE INTERCEPTS MIGRANT SHIP, RETAINS JURISDICTION  
OVER ECUADORIANS

¶1. (SBU) Summary: There have been several significant recent developments relating to maritime law enforcement. The Ecuadorian Navy interdicted an overloaded fishing boat off its coast on February 18 carrying more than 100 migrants destined for Guatemala and the U.S. In another case, the GOE has approved the use of an Ecuadorian Air Force plane to retrieve 77 Ecuadorian intending migrants rescued on February 15 off the coast of El Salvador and currently in Guatemala. However, the GOE continues to refuse to allow the U.S. prosecution of Ecuadorian crew members of the narcotrafficking vessel DIVI, intercepted by the U.S. Coast Guard on February 7. The first two developments are positive; the last reflects the political and legal constraints that still remain despite generally excellent GOE cooperation on counternarcotics. End Summary.

#### Ecuadorian Navy Intercepts Migrant Ship

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¶2. (U) On February 18, the Ecuadorian Navy intercepted a fishing vessel, "LALO I", believed to have originated in Peru, off the coast of Manabi province with close to 140 intending migrants on board. The migrants, of which there were 98 Ecuadorians, 24 Peruvians, a Dominican, and three Bangladeshis, intended to enter the United States via Central America and Mexico. Two Ecuadorians and five Peruvians were identified, by authorities as alleged crew members of the ship. The Ecuadorian Navy responded to the migrant vessel upon receipt of information provided by the USG.

#### Ecuadorians in Guatemala to Be Repatriated

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¶3. (U) A boat carrying 77 Ecuadorian migrants, which had been stranded for several days, was found off the coast of El Salvador on February 15 and the migrants rescued by the British-flagged vessel "GREENWICH MAERSK." The migrants claimed to have departed from Palta, Peru 15 days earlier with an eventual destination of the United States. The migrants were subsequently transferred to Guatemala. On February 19, GOE DefMin Oswaldo Jarrin, with President Palacio's approval, offered to send an Ecuadorian C-130 to Guatemala to retrieve the migrants. Ecuadorian diplomats are currently working out the logistical issues for the repatriation and we await MFA confirmation of their return.

#### GOE Insists Ecuadorians be Tried Under EC Law

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¶4. (SBU) On February 7, the "USS GETTYSBURG" approached the F/V "DIVI" approximately 1,000 nautical miles west of the Galapagos. Two of the DIVI's crew members set off an explosion which led to the sinking of the ship and the majority of the cocaine the ship was carrying. Approximately 220 pounds of cocaine and all eight crew members of Ecuadorian nationality were taken into custody by the U.S. forces. In response to a February 9 U.S. diplomatic note requesting U.S. jurisdiction over the prosecution of Ecuadorian narcotraffickers, the GOE delivered a diplomatic note on February 10 stating that under articles 4 and 17 of the U.N. Convention Against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, the GOE affirmed its right and obligation to prosecute the eight Ecuadorian crew members in Ecuador.

¶5. (SBU) At the request of the Interagency Maritime Operational Threat Response Committee in Washington, on February 20 the DCM again requested a GOE waiver of jurisdiction. The MFA Director General for National Sovereignty Jaime Barberis reiterated the GOE response, cleared by FM Francisco Carrion, regretting the MFA's inability to change the earlier decision on the Ecuadorians in the DIVI case. Barberis explained that under the Ecuadorian constitution, Ecuador cannot surrender one of its citizens for prosecution in a third country. (Note: Section 3, Chapter 2, Article 25 of the Constitution states: "Under no circumstances will the extradition of an Ecuadorian citizen be granted. The individual's trial is subject to Ecuadorian law.")

Comment

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¶6. (SBU) The interception of the "LALO I" vessel is the second instance in which the GOE has intercepted migrant flow on the high seas in the past three months. It reflects GOE resolve to deploy its limited naval forces against migrant smugglers, and comes in the wake of the tragic loss of over 100 lives in August 2005 when an overloaded Ecuadorian vessel sank 300 nautical miles west of Colombia. We are also encouraged the GOE took responsibility for the repatriation of its nationals rescued off the "GREENWICH MAERSK" from Guatemala. To ensure continued GOE cooperation, we must recognize the political and legal constraints that preclude a GOE waiver of jurisdiction. Short of that step, cooperation continues to be very positive. They are willing to provide U.S. investigative access to defendants in Ecuador, and parole them to the U.S. to testify as witnesses. We will continue to press for effective domestic prosecution of Ecuadorian criminals.

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